

CHAPTER 16
LICENSES & PERMITS
VILLAGE OF SLINGER, WASHINGTON COUNTY, WISCONSIN

ARTICLE 16.00 LICENSES & PERMITS

16.01 QUOTAS ON LICENSES

The Village deems it to be in the public interest of the Village to limit the number of Class A and Class B Fermented Malt Beverage Licenses and Class A Intoxicating Liquor Licenses it issues in accordance with the discretionary power given it by Chapter 125 of the Wisconsin Statutes.

(A) Quotas

The Village shall issue Class A Fermented Malt Beverage Licenses, Class B Fermented Malt Beverage Licenses and Class A Intoxicating Liquor Licenses in conformity with Wisconsin State Statutes.

16.02 LIQUOR AND BEER LICENSES

The Provisions of Ch.125 of the Wisconsin Statutes and also all acts amendatory thereof and supplementary thereto are adopted as a portion of this Chapter so far as applicable, except as otherwise provided by this Chapter.

(A) Fees

Fees for any applications, petitions, licenses, or permits, shall be as set by the Village Board of the Village of Slinger by a duly enacted Resolution and may be changed from time to time.

(B) License Investigation

The Village Clerk shall notify the Chief of Police, Director of Health, Chief of Fire Department, and the Building Inspector of each application for any license provided in this chapter, and these officials shall inspect or cause to be inspected, each application and the premises, together with such other investigation as shall be necessary to determine whether the applicant and premises sought to be licensed comply with the regulations, ordinances and laws applicable thereto and whether the applicant is a proper recipient of a license. These officials shall each furnish the Board in writing, the information derived from such investigations, accompanied by a recommendation as to whether the license should be granted or refused. No licenses shall be renewed without a re-inspection of the premises and report as originally required. In determining the suitability of an applicant, consideration shall be given to a background investigation conducted by the Slinger Police Department for felony convictions and/or violations of §125.

(C) Licenses Restrictions

1. No initial or renewal Alcohol Beverage License shall be granted for any premises for which taxes, assessments or other claims of the Village are delinquent and unpaid.
2. No initial or renewal Alcohol License shall be granted to any person:
 - (a) delinquent in payment of any taxes, assessments or other claims owed to the Village;
 - (b) delinquent in payment of forfeiture resulting from a violation of any Ordinance of the Village.
3. No liquor license or permit is required for Community Park in the Village of Slinger per State Statute 125.06 "License and Permit Exemptions" (6) "Public Parks. Fermented malt beverages shall be sold by officers, or employees of the county or municipality under an ordinance of resolution, rule or regulation enacted by the governing body.
4. The Village Board reserves the right to revoke a Class "A" or "B" or "Class A" or "Class B" liquor license issued hereunder that is not used within thirty (30) days after issuance, or usage is discontinued or the premises is abandoned for a period of sixty (60) days or more. The liquor license may be subject to revocation by the Village Board following a public hearing. The license holder will be notified by certified mail by the Village Clerk of the public hearing. No refund shall be made of any part of the license fee for any liquor license issued under this Chapter that is revoked for cause or is voluntarily surrendered.

The following exceptions shall apply:

1. The licensee may petition to the Board for an extension of time within which to use such license when the premises is destroyed or damaged by fire or other natural causes, or is closed for remodeling for more than sixty (60) days.
2. Existing seasonal businesses, including the race track (d/b/a Slinger Speedway) and the ski hill (d/b/a Little Switzerland) shall not be subject to the sixty (60) consecutive day of non-use if such time period is not during their operation season. (April-October for the race track and November – April for the ski hill).

(D) Fermented Malt Beverages

Fermented Malt Beverages may be sold in any public park operated by the Village when sold by officers or employees of the Village approved by the Board, without the necessity of said officers or employees obtaining a Bartender's License. Receipts from the sale of Fermented Malt Beverages shall be deposited in the treasury of the Municipality.

16.03 CIGARETTE LICENSES

(A) Cigarettes

It shall be unlawful to sell or dispense Cigarettes in the Village of Slinger by any means without first obtaining a license therefore. Selling or dispensing Cigarettes under a license is not allowed at such times as the place of business on the premises for which the sale of such Cigarettes is licensed is closed.

(B) Fees

Fees for any applications, petitions, licenses, or permits, shall be as set by the Village Board of the Village of Slinger by a duly enacted Resolution and may be changed from time to time.

16.04 DOG & CAT LICENSES

- (A) All dogs and cats over five (5) months of age are required to be licensed.
- (B) All dogs and cats subject to licensing shall be required to provide a rabies vaccination certificate unless exception allowed under (F).
- (C) No More than three (3) dogs and three (3) cats are permitted in a residence.
- (D) Fees for licenses shall be set by the Village Board by Resolution annually.
- (E) The provisions of Chapter 174 and Sec 95.21(2) and (9) (d) Wis. Stats. are adopted by reference.
- (F) The exemption with respect to rabies vaccinations are authorized by Sec 95.21 (9) (d) is adopted by reference with the following provisions:
 - 1. The exemption from a rabies vaccination is applicable for only one dog per owner and/or residence per year.
 - 2. Each year the owner of a dog seeking an exemption from the rabies vaccine requirement shall submit a letter from a veterinarian complying with the requirement of Sec. 95.21 (9) (d) Wis. Stats. dated not more than 30 days prior to the license application.
 - 3. The dog exempted from a rabies vaccination shall be allowed to be walked within the Village provided the owner keeps the dog on a leash no longer than 6 feet in length.
 - 4. The owner of an unvaccinated dog authorized by this ordinance shall notify in writing the Village Police Department and Fire Department of the fact that there is an unvaccinated dog at the owner's residence.
 - 5. The Owner shall prior to the issuance of a license sign a form prepared by the Village in which the owner holds the Village harmless for any damages amongst other things caused to any party by the unvaccinated dog.

16.05 PEDDLERS, CANVASSERS AND TRANSIENT MERCHANT'S LICENSES

It shall be unlawful for any peddler, canvasser or transient merchant as defined in Section B of this ordinance to engage in any such business within the Village of Slinger without first obtaining a license therefore in compliance with the provisions of this ordinance. A peddler, canvasser or transient merchant may also be referred to generally as solicitors in other sections of the code of ordinances.

(A) Fee

Fees for any applications, petitions, licenses, or permits, shall be as set by the Village Board of the Village of Slinger by a duly enacted Resolution and may be changed from time to time.

(B) Definitions

1. "Peddler" shall include any person, whether a resident of the Village of Slinger or not, who goes from house to house, place to place, or street to street; conveying or transporting goods, wares, merchandise, offering or exposing the same for sale, or making sales and delivering articles to purchaser. It shall not include vendors of milk, bakery products, groceries or ice who distribute their products to regular customers on established routes.
2. "Canvassers" shall include any person, whether a resident of the Village of Slinger or not, who goes from house to house, place to place, or from street to street; soliciting, taking or attempting to take orders for a sale of goods, wares or merchandise, including magazines, books, periodicals, or personal property of any nature whatsoever for future delivery or for a service to be performed in the future, whether or not such individual has, carries or exposes for sale a sample of the subject of such order or whether or not he is collecting advance payments on such orders. Such definitions shall include any person who, for himself, or for another person, firm or corporation; hires, leases, uses or occupies any building, motor vehicle, trailer, structure, tent, railroad boxcar, boat, hotel room, lodging room, lodging house, apartment, shop or other place within the Village for the primary purpose of exhibiting samples and taking orders for future deliver.
3. "Transient Merchant" shall include any person, firm or corporation; whether as owner, agent, consignee, or employee, whether a resident of the Village of Slinger or not; who engages in a temporary business of selling and delivering goods, wares, and merchandise within said Village, and who, in furtherance of such purpose, hires, leases, uses or occupies any building, structure, motor vehicle, trailer, tent, railroad boxcar, or boat, public room in hotels, lodging house, apartments, shops or any street, alley or other place within the Village, for the exhibition and sale of such goods, wares and merchandise, either privately or at public auction, provided that such definition shall not be construed to include any person, firm or corporation, who while occupying such temporary location, does not sell from stock, but exhibits samples for the purpose of securing orders for future delivery only. The person, firm or corporation so engaged shall not be relieved from complying with the provisions of this ordinance merely by reason of associating temporarily with any local dealer, trader, merchant, or auctioneer, or by conducting such transient business in connection with, as a part of , or in the name of any local dealer, trader, merchant, or auctioneer.

(C) Exemptions

The terms of this ordinance shall not be held to include the acts of persons selling property at wholesale to dealers in such articles. Not to newsboys, acts of merchants, or

their employees in delivering goods in the regular course of business, nor shall the terms of this ordinance be held to include, or apply to any farmer or truck gardener who shall vend, sell, or dispose of, or offer to sell, vend or dispose of, the products from the farm or garden occupied and cultivated by him, to include the seasonal sale of Christmas trees. Nothing contained in this ordinance shall be held to prohibit any sale required by Statutes or by order of any Court, or to prevent any person conducting a bonafide auction sale pursuant to law.

(D) Applications

Applicants for a license under this ordinance must file with the Village Clerk a sworn application in writing on a form to be furnished by the Village Clerk which shall give the following information:

1. Name and physical description of applicant;
2. Complete permanent home and local address of the applicant and, in case of transient merchants, the local address from which proposed sales will be made;
3. A brief description of the nature of the business goods to be sold;
4. If employed, the name and address of the employer, together with credentials therefrom establishing the exact relationship;
5. The length of time for which the right to do business is desired;
6. The source of supply of the goods or property to be sold, or orders taken for the same sale thereof, where such goods or products are located at the time said application is filed, and the proposed method of delivery;
7. A statement as to whether or not the applicant has been convicted of any crime, misdemeanor, or violation or any municipal ordinance, other than traffic violations, the nature of the offense and punishment or penalty assessed therefore;
9. The last Cities or Villages, not to exceed three where applicant carried on business immediately proceeding date of application and addresses from which such business was conducted in those municipalities.

(E) Charitable Organizations - Exemption

Any organization, society, association or corporation desiring to solicit or have solicited in its name; money, donations, property, financial assistance of any kind, desiring to sell or distribute any item, literature or merchandise for which a fee is charged or solicited from persons other than members of such organization upon the street, in office or business buildings, by house or house canvass, or in public places for a charitable, patriotic or philanthropic purpose shall not be exempt from this ordinance, but shall be exempt from payment of license fee.

(F) Investigation and Issuance

1. Upon receipt of each application, it shall be referred to the Village Chief of Police, who shall immediately investigate applicant's business and moral character as he deems necessary for the protection of the public good and shall endorse on such application in the manner prescribed in this section within 3 business days after it has been filed with the Clerk.

2. If as a result of such investigation, the applicant's character or business responsibility is found to be unsatisfactory, the Village Chief of Police shall endorse on such application his disapproval and his reasons for the same, and return the said application to the Village Clerk who shall notify the applicant that his application is disapproved and that no lines will be granted.
3. If as a result of such investigation, the character and business responsibility of the applicant are found to be satisfactory, the Village Chief of Police shall endorse on the application to the Village Clerk, Who shall upon payment of the prescribed license fee, deliver to the applicant his license. Such license shall contain the signature of the issuing officer and shall show the name, address and photograph of said licensee, the class of license issued and the kind of goods to be sold thereunder, the amount of fee paid, the date of issuance and the length of time the same shall be operative, as well as the license number and other identifying description of any vehicle used in such licensed business. Each peddler, canvasser or transient merchant must secure a personal license. No license shall be used at any time by any person other than the one to whom it was issued.

(G) Loud Noises and Speaking Devices

No licensee, nor any person in his behalf, shall shout, cry out, blow a horn, ring a bell or use any sound amplifying device upon any of the streets, alleys, parks or other public places of the Village or upon private premises where sound of sufficient volume is emitted or produced therefrom to be capable of being plainly heard upon the streets, avenues, alleys, parks or other public places, for the purpose of attracting attention to any goods, wares or merchandise which such licensee proposes to sell.

(H) Use of Streets

No licensee shall have any exclusive right to any location in the public street, nor shall any be permitted a stationary location thereon, nor shall any be permitted to operate in a congested area where such operation might impede or inconvenience the public use of such streets. For the purpose of this ordinance, the judgment of the police department, exercised in good faith, shall be deemed conclusive as to whether the area is congested and the public impeded or inconvenienced.

(I) Exhibition of License

Licensees are required to exhibit their certificates of license at the request of any citizen.

(J) Duty of Police to Enforce

It shall be the duty of the police of the Village of Slinger to require any person seen peddling, soliciting or canvassing, and who is not known by such officer to be duly licensed, to produce his license and to enforce the provisions of this ordinance against any person found to be violation the same.

(K) Records

The Chief of Police shall report to the Village Clerk all convictions for violation of this ordinance and the Village Clerk shall maintain a record for each license issued for the record the reports of violations therein.

(L) Revocation of License

Licenses issued under the provisions of this ordinance may be revoked by the Village Clerk for any of the following causes:

1. Fraud, misrepresentation, or incorrect statement contained in the application for license;
2. Fraud, misrepresentation, or incorrect statement made in the course of carrying on his business as solicitor, canvasser, peddler, transient merchant, itinerant merchant or itinerant vendor;
3. Any violation of the ordinance;
4. Conviction of any crime or misdemeanor;
5. Conducting the business of peddler, canvasser, and transient merchant. As the case may be, in an unlawful manner as to constitute a breach of the peace or to constitute a menace to the health, safety, or general welfare of the public.

(M) Expiration, Renewal and Transfer

All licenses referenced in the section shall be issued for a period of one (1) month (30 days) from the date of issue. All licenses referenced herein are renewable upon expiration, for a maximum of two (2) times, not to exceed a total including the initial application of three (3) permits in one calendar year, provided no justifiable complaint has been filed against the licensee. The Village Clerk is empowered to revoke the license at any time, for just cause, resulting in the forfeiture of fees paid. All licenses granted under this section are non-transferable.

(N) Appeal

Any person aggrieved by the action of the marshal or the Village Clerk in the denial of a permit or license as provided in this ordinance shall have the right to appeal to the Village Board of the Village of Slinger. Such appeal shall be taken by filing with the Village Board within fourteen days after notice of the action complained of, a written statement setting forth fully the grounds for the written appeal. The Village Board shall set a time and place for hearing on such appeal and notice of such hearing shall be given to the appellant.

16.06 SHOW LICENSES

It shall be unlawful for any person, partnership, company, or corporation to exhibit within the Village any caravan, menagerie, circus, side-show, public show, theatrical or other exhibition without first obtaining a license from the Village Board.

- (A) Such respective amount or amounts shall be paid by the applicant to the Village Clerk, who shall thereupon issue a license to the person applying therefore, which license shall state the purpose for which it is issued and the day or days for which it is granted. Provided, however, that the Village Board may, in its discretion, revoke any such license so issued by causing the amount of fee so paid to be returned to the person or persons paying the same or to the manager of such exhibition or show; and provided further that the Village Board may, in its discretion, direct the Clerk not to issue such license and to return any fee already paid.
- (B) This ordinance shall not be construed to compel joint owners, proprietors or exhibitors to procure more than one license or each performance, not to procure more than one license where more than performance or exhibition is given for a single admission fee.
- (C) This ordinance shall not apply to lectures on scientific, moral or literary subjects, nor to concerts of music, if no other object is connected therewith.
- (D) This ordinance shall not apply to persons, partnerships, corporations or companies who lease space within the Village for the presentation of shows unless goods or wares of merchandise are offered for sale in connection or conjunction with such shows.
- (E) This ordinance shall not apply to those activities under jurisdiction of the Washington County Fair.
- (F) The fee for said license shall be \$25.00 plus any personnel and equipment costs generated by the Village as a direct result of the event.

16.07 OPERATOR'S LICENSE

All bartenders in the Village of Slinger must have an Operator's license in conformance with Wisconsin Statutes 125.04 issued and approved by the Village Clerk.

(A) Fees

Fees for any applications, petitions, licenses or permits, shall be set by the Village Board of the Village of Slinger by a duly enacted Resolution and may be changed from time to time.

16.08 ELECTRONIC GAMES JUKE BOXES AND PINBALL MACHINES

(A) Registration

Property owners or renters shall, register or cause to be registered by the Village Clerk, all of their electronic games, billiard tables, juke boxes and pinball machines on location for use no later than the third Monday of June for approval by the Village Board and prior to their expiration on June 30th. Amusement Licenses run from July 1st to June 30th of the following year. Nothing herein contained shall be construed to authorize the registration of any slot machine or gambling devices not allowed by the State.

(B) Issuance of Registration Symbols

The Village Clerk shall require the registrant to submit the information as may be necessary to identify the electronic games and pinball machines so registered, and shall issue to the registrant an appropriate registration symbol so designed as to permit its secure attachment to the amusement device to be registered. Any person, firm or corporation delinquent in the payment of taxes, personal or real, shall not be issued a distributor's license.

(C) Fees

Fees for any applications, petitions, licenses, or permits, shall be as set by the Village Board of the Village of Slinger by a duly enacted Resolution and may be changed from time to time.

(D) Seizure

The Village President, Chief of Police or any police officer shall seize or cause to be seized any electronic game and pinball machine upon which is not affixed a registration symbol as herein required. The ownership or possession of any non-registered electronic game and pinball machine is declared to be a violation of this subsection.

(E) Transfer of Registration Symbols

Any transfer of registration symbols from one machine to another shall be unlawful, unless a certificate of transfer is first obtained from the Village Clerk. The Clerk shall issue such certificate upon the verified statement of the licensee or operator that the previously registered machine is no longer located at the place where originally registered, and that by such transfer the machines on hand shall not exceed two in number.

(F) Counterfeit Registration Symbols

No person shall counterfeit a registration symbol or shall transfer such registration symbol from one amusement device to another without having previously registered such transfer with the Village Clerk.

(G) Revocation of License of Registration Symbols.

1. By the Court:

Upon a conviction of a violation of any provision of this section. The Police Chief shall revoke and demand surrender of the registration symbols by commanding a return thereof and notifying the Village Clerk in writing of the name and address of the licensee or registrant and the date of such revocation. The revocation shall be effective as of the date of conviction, unless stayed appeal.

2. By the Village Board:

The Village Board may after the issuance of any license of registration symbols, revoke the same when any licensee or registrant is not deemed a proper person and of good moral character or has resorted to a subterfuge in obtaining the license or registration number or has made a material misstatement of fact in his application or has moved his residence outside the Village limits after obtaining a license or registration number.

16.09 PARADE PERMITS

(A) Definitions

In this section, the terms used shall be defined as follows:

1. Parade shall include any parade, march or procession of any kind and associated assembly areas;
2. Special Event shall include organized runs, walks, races of any type, or similar event; art fairs, street dances and commercial sales when conducted in the traveled portion of a street;
3. Marshall shall include Police Officers, designated to maintain proper order;
4. Hereinafter the word "parade" is synonymous with "special event."

(B) Permit Required

No person shall form, direct, lead or participate in any parade or special event in any area used principally for pedestrian or vehicular traffic unless prior Village Police Chief approval has been obtained.

1. Parade permits shall be issued by the Village Clerk upon approval by the Village Police Chief;
2. A completed application for a parade permit shall be made not less than 60 days in advance of the parade and shall contain the proposed route and times of the event;
3. The parade permit fee shall be \$25.00, plus any Municipal costs associated with the special event, except for parades or special parades sponsored by the Village. Only one fee shall be charged for a multiple day event.

(C) Exceptions

A permit shall not be required for the following:

1. A funeral procession, Memorial Day Parade, Village or School sponsored parades;
2. Students going to and from school classes or school activities, providing such conduct is under the supervision of school authorities.
3. Use of the Ice Age Trail

(D) Financial Responsibility

A certificate of liability insurance in the following amount must be provided prior to the issuance of the permit:

1. \$1,000,000 policy for events such as athletic events, fireworks displays and bicycle races;
2. \$500,00 policy for special activities such as runs, walks, carnivals, circuses, concerts and festivals;
3. \$300,00 policy for other activities such as parades, trade shows, and art and craft shows.

The Village reserves the right to designate the appropriate level of insurance and, if substantial risk is present, may require additional levels of insurance.

(E) Denials

An application for a parade permit may be denied by the Village Board if:

1. It is for a parade that is to be held on a work day during hours when and at places where, in addition to the proposed parade, the flow of vehicular and pedestrian traffic is usually delayed by its own volume;
2. It is for a parade that is to be held between the hours of 10:00 P.M. and 6:00 A.M.;
3. Sufficient police officers are not provided to reasonably assure the orderly conduct of the parade. As determined by the Police Department. Costs shall be the responsibility of the permit holder for extra man hours of the police officer (s);
4. More than one assembly area or more than one dispersal area is proposed;
5. Permission for use of property for assembly, Dispersal or check points has not been obtained;
6. The proposed route or parade would substantially disrupt business, traffic or neighborhoods;.
7. There is a reasonable probability the parade would involve violation of Federal or State highway law, or of other applicable provisions of this Code or Village ordinances;
8. The granting of the permit would conflict with another permit already granted, or for which application is already pending;
9. The Department of Transportation fails to approve a detour route if required;
10. The applicant fails to arrange for Emergency Medical Services.

(F) Revocation

The Chief of Police may revoke a permit already issued if he deems that such action is justified by an actual or potential emergency due to weather, fire, riot, other catastrophe or the likelihood of a breach of the peace or by a major change in the conditions forming the basis of the standards of issuance.

(G) Conduct of Participants

The Board of Public Works may promulgate such rules as necessary to ensure the safety of participants and spectators. The rules shall include, but are not limited to, the following:

1. No alcoholic beverages are permitted on any float or vehicle;
2. Nothing is to be thrown from any float or vehicle;
3. Vehicles and floats are to be operated in a safe and responsible manner at all times;
4. No one is permitted to board or depart any float or vehicle while it is in motion;
5. Permanent route markers, including paint or similar substances, are not permitted on either private or public property.

(H) Interference

No person shall hamper, obstruct or impede or interfere with any parade or parade assembly or with any person, vehicle or animal participating or used in the parade, nor shall any other organization or group of persons not mentioned in the application for a parade permit participate in the parade.

(I) Driving through Parades

No Driver of a vehicle shall drive between the vehicles or person comprising a parade when such vehicles or persons are in motion and are conspicuously designated as a parade unless directed to do so by a Police Officer. However, the parade shall permit passage of authorized emergency vehicles.

(J) Penalty

Parade permit and conduct offense will result in a fine totaling \$125.00.

16.10 FIRES REGULATED

(A) Permit Required

No person shall kindle any fire within the Village without first obtaining a permit from the Village. Such permit shall be subject to any conditions for the protection of life and property imposed by the Fire Chief and communicated to the permittee.

(B) Burning Prohibitions

1. No person shall kindle garbage, except in an indoor incinerator;
2. No person shall kindle any recyclable item as defined in Section 7.07 of this Code;

(C) Emergency Regulations

The Village Administrator may, when necessary, declare an "Emergency Condition of Fire Hazard." During such declared emergency, no burning shall be permitted unless burning is done or controlled by the Fire Department in the interest of public safety.

(D) Conditions of Burning

1. Weather Restriction - no fire shall be ignited if the wind velocity as reported by the U.S. Weather Bureau in Milwaukee is more than 12 M.P.H.
2. Place Restricted - no person shall kindle or cause to be kindled any fire in or upon any street, alley or public way within 25 feet of any building or within any fire lane, unless within a metal enclosure with cover attached to prevent the escape of sparks and burning materials.
3. Adult Supervision - an adult shall be in attendance on the property where the fire is burning, and shall be in view and control of the fire at all times.

16.11 SEXUALLY ORIENTED BUSINESSES

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(A) **PURPOSE & FINDINGS.**

Purpose: It is the purpose of this Ordinance to regulate sexually oriented businesses in order to promote the health, safety, morals and general welfare of citizens of the Village of Slinger, and to establish reasonable and uniform regulations to prevent the deleterious location and

concentration of sexually oriented businesses within the Village of Slinger. The provisions of this Ordinance have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials. Similarly, it is neither the intent nor effect of this Ordinance to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent nor effect of this Ordinance to condone or legitimize the distribution of obscene material.

Findings: Based on evidence concerning the adverse secondary effects of adult uses on the community presented in hearings and in reports made available to the Village, and on findings incorporated in the cases of *City of Renton v. Playtime Theatres, Inc.*, 475 U.S. 41 (1986), *Young v. American Mini Theatres*, 426 U.S. 50 (1976), *FW/PBS, Inc. v. City of Dallas*, 493 U.S. 215 (1990), *Barnes v. Glen Theatre, Inc.* 501 U.S. 560 (1991), *City of Erie v. Pap's A.M.*, 120 S. Ct. 1382 (2000), *East of the River Enterprises II v. City of Hudson*, 2000 Wisc. App. Lexis 734 (Ct. App. Aug. 1, 2000); *Ben's Bar, Inc. v. Village of Somerset*, ___ F.3d ___, 2003 WL 132541 (7th Cir. 2003), and on studies in other communities including, but not limited to: Phoenix, Arizona; Houston, Texas; Minneapolis, Minnesota; St. Paul, Minnesota; Indianapolis, Indiana; Amarillo, Texas; Garden Grove, California; Los Angeles, California; Whittier, California; Austin, Texas; Seattle, Washington; Oklahoma City, Oklahoma; Cleveland, Ohio; Beaumont, Texas; Dallas, Texas; Newport News, Virginia; Bellevue, Washington; New York, New York; and St. Croix County, Wisconsin; and the Report of the Attorney General's Working Group of Sexually Oriented Businesses (June 6, 1989, State of Minnesota), and statistics obtained from the U.S. Department of Health and Human Services, Centers for Disease Control and Preventions, the Village Board finds that:

1. Sexually oriented businesses lend themselves to ancillary and unlawful and unhealthy activities that are presently uncontrolled by the operators of the establishments. Further, there is presently no mechanism to make the owners of these establishments responsible for the activities that occur on their premises.
2. Certain employees of sexually oriented businesses, defined in this Ordinance as adult theaters and adult cabarets, engage in higher incidences of certain types of illicit sexual behavior than employees of other establishments.
3. Sexual acts, including masturbation, and oral and anal sex, occur at sexually oriented business, especially those which provide private or semi-private booths or cubicles for viewing films, videos, or live sex shows.
4. Offering and providing such space encourages such activities, which creates unhealthy conditions.
5. Persons frequent certain adult theaters, adult arcades, and other sexually oriented businesses for the purposes of engaging in sex within the premises of such sexually oriented businesses.
6. At least 50 communicable diseases may be spread by activities occurring in sexually oriented businesses, including but not limited to, syphilis, gonorrhea, human immunodeficiency virus infection (HIV-AIDS), genital herpes, hepatitis B, Non A, Non B, amebiasis, salmonella infections and shigella infections.
7. Since 1981 and to the present, there has been an increasing cumulative number of reported cases of AIDS (acquired immunodeficiency syndrome) caused by the HIV virus in the United States: 600 in 1982; 2,200 in 1983, 4,600 in 1984; 8,555 in 1985, and 253,448 through December 31, 1992.

8. The State of Wisconsin Division of Health indicated that on July 25, 1986, there was 96 cases of AIDS reported in the state, including 54 cases that resulted in death and that a ten-fold increase in reported cases was expected between 1986 and 1991.
9. The number of cases of early (less than one year) syphilis in the United States reported annually has risen, with 33,613 cases reported in 1982, and 45,200 through November, 1990.
10. The number of cases of gonorrhea in the United States reported annually remains at a high level, with over one-half million cases being reported in 1990.
11. In his report of October 22, 1986, the Surgeon General of the United States has advised the American public that AIDS and HIV infection may be transmitted through sexual contact, intravenous drug abuse, exposure to infected blood and blood components and from an infected mother to her newborn.
12. According to the best scientific evidence, AIDS and HIV infection, as well as syphilis and gonorrhea, are principally transmitted by sexual acts.
13. Sanitary conditions in some sexually oriented businesses are unhealthy in part, because the activities conducted there are unhealthy, and, in part, because of the unregulated nature of the activities and the failure of the owners and the operators of the facilities to self-regulate those activities and maintain those facilities.
14. Numerous studies and reports have determined that semen is found in the areas of sexually oriented businesses where persons view adult oriented films.
15. Crime statistics show that all types of crimes, especially sex-related crimes, occur with more frequency in neighborhoods where sexually oriented business are located.
16. Studies of the relationship between sexually oriented business and neighborhood property values have found a negative impact on both residential and commercial property values.
17. There is an increase in the potential for infiltration by organized crime for the purpose of unlawful conduct.
18. The consumption of alcoholic beverages on the premises of sexually oriented businesses exacerbated the deleterious secondary effects of such businesses on the community. In fact, the Supreme Court has gone so far as to assert that "common sense indicates that any form of nudity coupled with alcohol begets undesirable behavior." *Ben's Bar*, 2003 WL 132541, *19 (citations omitted).
19. Sexually oriented businesses have operational characteristics which should be reasonably regulated in order to protect the substantial government concerns addressed in the above subsections.
20. A reasonable licensing procedure is an appropriate mechanism to place the burden of that reasonable regulation on the owners and the operators of the sexually oriented businesses. Further, such a licensing procedure will place an incentive on the operators to see that the sexually oriented business is run in a manner consistent with the health, safety, and welfare of its patrons and employees, as well as the citizens of the Village. It is appropriate to require reasonable assurances that the licensee is the actual operator of the sexually oriented business, fully in possession and control of the premises and activities occurring therein.
21. The disclosure of certain information by those persons ultimately responsible for the day to day operation and maintenance of the sexually oriented business, where such information is substantially related to the significant governmental interest in the operation of such uses, will aid in preventing the spread of sexually transmitted diseases.

22. In the prevention of the spread of communicable diseases, it is desirable to obtain a limited amount of information regarding certain employees who may engage in the conduct which this Ordinance is designed to prevent, or who are likely to be witnesses to such conduct.
23. The general welfare, health, morals and safety of the citizens of the Village of Slinger will be promoted by the enactment of this Ordinance.

(B) DEFINITIONS

1. “Adult Arcade” means any place to which the public is permitted or invited, wherein coin-operated or slug operated or electronically, electrically, or mechanically controlled or still or motion picture machines, projectors, or other image-producing devices are regularly maintained to show images to five (5) or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by their emphasis upon matters exhibiting “specified sexual activities” or “specified anatomical areas”.
2. “Adult Bookstore” or “Adult Video Store” means a commercial establishment that has as a significant or substantial portion of its stock-in-trade, or derives a significant or substantial portion of its revenues or devotes a significant or substantial portion of its interior business or advertising, or maintains a substantial section of its sales or display space for the sale or rental, for any form of consideration, of any one or more of the following:
 - a. books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes, compact discs, slides or other visual representations, which are characterized by their emphasis upon the exhibition or display of “specified sexual activities” or “specified anatomical areas”; or
 - b. instruments, devices or paraphernalia which are designed for use or marketed primarily for stimulation of human genital organs or for sadomasochistic use or abuse of the user or others.

A commercial establishment may have other principal business purposes that do not involve the offering for sale or rental of material depicting or describing “specified sexual activities” or “specified anatomical areas” and still be categorized as ADULT BOOKSTORE or ADULT VIDEO STORE so long as one of its principal business purposes is the offering for sale or rental for consideration the specified materials that depict or describe “specified sexual activities” or “specified anatomical areas”. A principal business purpose need not be a primary use of an establishment so long as it is a significant use based upon the visible inventory or commercial activity of the establishment.

This definition shall expressly exclude films, motion pictures, video cassettes, slides or other similar photographic reproductions given an “R” rating by the Motion Picture Association of America.

3. Adult Cabaret” means a nightclub, dance hall, bar, restaurant, or similar commercial establishment which regularly features:
 - a. persons who appear semi-nude; or
 - b. live performances that are characterized by the exposure of “specified sexual activities” or “specified anatomical areas”; or

- c. films, motion pictures, video cassettes, slides or other photographic reproductions which are characterized by the exhibition or display of “specified sexual activities” or “specified anatomical areas”.
 - d. This definition shall expressly exclude films, motion pictures, video cassettes, slides or other similar photographic reproductions given an “R” rating by the Motion Picture Association of America.
4. “Adult Motel” means a hotel, motel or similar commercial establishment, which:
- a. offers accommodations to the public for any form of consideration; provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides or other photographic reproductions, which are characterized by the depiction of “specified sexual activities” or “specified anatomical areas”; and has a sign visible from the public right of way which advertises the availability of this adult type of photographic reproductions; or
 - b. offers a sleeping room for rent for a period of time that is less than ten (10) hours; or
 - c. allows a tenant or occupant of a sleeping room to sub-rent the room for a period of time that is less than ten (10) hours.
5. “Adult Motion Picture Theater” means a commercial establishment where, for any form of consideration, films, motion pictures, video cassettes, slides, or similar photographic reproductions are regularly shown which are characterized by the depiction or description of “specified sexual activities” or “specified anatomical areas”. This definition shall expressly exclude films, motion pictures, video cassettes, slides or other similar photographic reproductions given an “R” rating by the Motion Picture Association of America.
6. “Adult Theater” means a theater, concert hall, auditorium, or similar commercial establishment which regularly features persons who appear nude or semi-nude, or live performances which are characterized by the exposure of “specified sexual activities” or “specified anatomical areas”.
7. Board” means the Village Board for the Village of Slinger, Washington County, Wisconsin.
8. “Directly” means to require physical contact. For instance, when this Ordinance prohibits an employee to receive a gratuity “directly” from a patron, it prohibits the direct touching of skin, other body parts or clothing.
9. “Distinguished” or “characterized by” means the dominant or principal theme of the object referenced. For instance, when the phrase refers to films “which are distinguished or characterized by an emphasis upon the exhibition or display of specified sexual activities or specified anatomical areas”, the films so described are those whose dominant or principal character and theme are the exhibition or display of “specified sexual activities” or “specified anatomical areas”.

10. “Employee”, “employ” and “employment” describe and pertain to any person who performs any service on the premises of a sexually oriented business on a full-time, part-time, or contract basis, regardless of whether the person is denominated as an employee, independent contractor, agent, or by another status. Employee does not include a person exclusively on the premises for repair or maintenance of the premises, or for the delivery of goods to the premises.
11. “Escort” means a person who, for consideration, and for another person, agrees or offers to privately model lingerie or to privately perform a striptease.
12. “Escort Agency” means a person or business association who furnishes, offers to furnish, or advertises to furnish escorts as one of its primary business purposes for a fee, tip or other consideration.
13. “Establish” or “establishment” means and includes any of the following:
 - a. the opening or commencement of any sexually oriented business as a new business;
 - b. the conversion of any existing business, whether or not a sexually oriented business, to any sexually oriented business;
 - c. the addition of any sexually oriented business to any other existing sexually oriented business; or
 - d. the relocation of any sexually oriented business.
14. “Licensee” means a person in whose name a license to operate a sexually oriented business has been issued, as well as the individual listed as an applicant on the application for a license.
15. “Nude”, “nudity” or “state of nudity”, means the showing of the human male or female genitals, pubic area, vulva, anus, or anal cleft with less than a fully opaque covering, the showing of the female breast with less than a fully opaque covering of any part of the nipple, or the showing of the covered male genitals in a discernibly turgid state.
16. “Operate” or “cause to be operated” means to cause to function or to put or keep in a state of doing business. “Operator” means any person on the premises of a sexually oriented business who is authorized to exercise operational control of the business, or who causes to function or who puts or keeps in operation the business. A person may be found to be operating or causing to be operated a sexually oriented business regardless of whether that person is an owner, part owner, or licensee of the business.
17. “Person” means an individual, proprietorship, partnership, corporation, association, or other legal entity.
18. “Premises” means the real property upon which the sexually oriented business is located, and all appurtenance thereto and buildings thereon, including, but not limited to the sexually oriented business the grounds, the private walkways, and parking lots and/or parking garages adjacent thereto, under the ownership, control or supervision of the owner or operator of the business.

19. “Regularly features” or “regularly shows” means a consistent or substantial course of conduct, such that the films or performances exhibited constitute a substantial portion of the films or performances offered as part of the ongoing business of the sexually oriented business.
20. “Semi-nude” or “semi-nude condition” means the showing of the female breast below a horizontal line across the top of the areola at its highest point or the showing of the male or female buttocks. This definition shall include the lower portion of the human female breast, but shall not include any portion of the cleavage of the human female breast, exhibited by a dress, blouse, skirt, leotard, bathing suit, or other wearing apparel, provided the areola is not exposed in whole or in part.
21. “Sexual encounter center” means a business or commercial establishment, that as one of its principal business purposes, offers for any form of consideration, a place where two (2) or more persons may congregate, associate, or consort for the purpose of “specified sexual activities”. The definition of sexual encounter center or any sexually oriented business shall not include an establishment where a medical practitioner, psychologist, psychiatrist, or similar professional person licensed by the state engages in medically approved and recognized sexual therapy.
22. “Sexually oriented business” means an adult arcade, adult bookstore, adult video store, adult cabaret, adult motel, adult motion picture theater, adult theater, escort agency, or sexual encounter center.
23. “Specified Anatomical Areas” means
 - a. the human male genitals in a discernibly turgid state, even if completely and opaquely covered; or
 - b. less than completely and opaquely covered human genitals, pubic region, buttocks or a female breast below a point immediately above the top of the areola.
24. “Specified sexual activity” means:
 - a. the fondling of another person’s genitals, pubic region, anus, or female breasts;
 - b. actual sex acts, normal or perverted, including intercourse, oral copulation, masturbation, or sodomy; or
 - c. excretory functions as part of, or in connection with, any of the activities set forth in (1) through (2) above.
25. “Substantial enlargement” of a sexually oriented business means the increase in floor areas occupied by the business by more than twenty-five percent, as the floor areas exist on the date this Ordinance takes effect.
26. “Transfer of ownership or control” of a sexually oriented business means and includes any of the following:
 - a. the sale, lease, or sublease of the business;

- b. the transfer of securities which constitute a controlling interest in the business, whether by sale, exchange, or similar means; or
- c. the establishment of a trust, gift, or other similar legal device which transfers the ownership or control of the business except for transfer by bequest or other operation of law upon the death of the person possessing the ownership or control.

(C) CLASSIFICATION

“Sexually oriented businesses” are classified as follows:

- 1. adult arcades;
- 2. adult bookstores or adult video stores;
- 3. adult cabarets;
- 4. adult motels;
- 5. adult motion picture theaters;
- 6. adult theaters;
- 7. escort agencies;
- 8. sexual encounter centers.

(D) LICENSE

- 1. Except as provided in subsection (d) below, from and after the effective date of this Ordinance, no sexually oriented business shall be operated or maintained in the Village of Slinger without first obtaining a license to operate issued by the Village of Slinger.
- 2. A license may be issued only for (1) sexually oriented business located at one fixed and certain place. Any person, partnership, or corporation which desires to operate more than one sexually oriented business must have a license for each.
- 3. No licensee may transfer ownership or control of the sexually oriented business to any other person, partnership or corporation.
- 4. All sexually oriented businesses existing at the time of the passage of this Ordinance must submit an application for a license within sixty (60) days of the passing of this Ordinance.

(E) APPLICATION FOR LICENSE.

- 1. Any person, partnership or corporation desiring to secure a license shall submit an application to the Village Clerk. The application shall be filed in triplicate and dated by the Village Clerk. A copy of the application shall be distributed promptly by the Village Clerk to the Village of Slinger Police Department and to the applicant.
- 2. If the Village of Slinger Police Department is aware of any information bearing on the applicant’s qualifications, that information shall be filed in writing with the Village Clerk.

3. An application for a license must be made on a form provided by the Village of Slinger. All applicants must be qualified according to the provisions of this Ordinance.
4. An application shall be considered complete if it includes the information required in this Section.
5. An applicant for a license shall furnish the following information under oath:
 - a. Name and address.
 - b. Written proof that the individual is at least eighteen (18) years of age. Written proof of age may be in the form of either:
 1. a copy of a birth certificate and current photo,
 2. a current driver's license with picture, or
 3. other picture identification document issued by a governmental agency and demonstrating proof of age.
 - c. The name, business location, business mailing address and phone number of the proposed sexually oriented business.
 - d. A statement as to whether the licensee of the sexually oriented business intends to serve, sell, use or provide any intoxicating liquor, cereal malt beverage or any type of alcoholic beverage on the premises of the sexually oriented business.
 - e. If the applicant is a corporation, the application shall specify the name of the corporation, the date and state of incorporation, the name, address and ages of all shareholders of the corporation owning more than five percent (5%) of the stock in said corporation and all officers and directors of the corporation, and the name and address of the registered agents.
 - f. If the applicant is a partnership, joint venture, or any other type of organization where two (2) or more persons have a financial interest, the application shall state the names, addresses and ages of all persons having a financial interest in the partnership, joint venture or other type of organization.
 - g. A sketch or diagram showing the configuration of the premises, including a statement of total floor space occupied by the business shall accompany the application for a sexually oriented business. The sketch or diagram need not be professionally prepared, but shall be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six (6) inches.
 - h. If the person who wishes to operate a sexually oriented business is an individual, he or she shall sign the application for a license as applicant. If the person who wishes to operate a sexually oriented business is other than an individual (such as a corporation or partnership), each officer, director, director, general partner, or other person identified in Section 16.11 E (5) and (6) shall sign the application for a license as the applicant. Each applicant must be qualified under this section and each applicant shall be considered as a licensee if the license is granted.
 - i. Within twenty-one (21) days of receiving an application for a license, the Village Clerk shall notify the applicant whether the application is granted or denied.
 - j. Whenever an application is denied, the Village Clerk shall advise the applicant in writing of the reasons for such action. If the applicant requests a hearing

within ten (10) days of receipt of notification of denial, a public hearing shall be held within ten (10) days thereafter, as hereinafter provided.

- k. Failure or refusal of the applicant to give any information relevant to the application or his or her refusal to submit to or cooperate with regard to any information required by this Ordinance shall constitute an admission by the applicant that he or she is ineligible for such license and shall be grounds for denial thereof by the Village Board.

(F) STANDARDS FOR ISSUANCE OF LICENSE.

- (1) The Village Board shall approve the issuance of a license unless one or more of the following is found to be true:
 - a. An applicant (including all individuals, officers, directors, shareholders, or persons with a financial interest in the organization) is less than eighteen (18) years of age.
 - b. An applicant is delinquent in the payment owed to the Village of Slinger of taxes, fees, fines or penalties assessed against or imposed upon the applicant in relation to a sexually oriented business.
 - c. An applicant has failed to provide information as required in Section 16.11 (E) for issuance of the license.
 - d. The license application fee required by this Ordinance has not been paid.
 - e. An applicant has falsely answered a question or request for information on the application form.
 - f. The proposed sexually oriented business is not in compliance with the location restrictions established or physical layout restrictions established for sexually oriented businesses in this Ordinance.
 - g. The applicant states or the Village Board subsequently discovers that the applicant intends to serve, sell, use or provide any intoxicating liquor, cereal malt beverages, or any type of alcoholic beverages on the premises of the sexually oriented business.
 - h. The license, if granted, shall state on its face the name of the person or persons to whom it is granted, the number of the license issued to the applicant, the expiration date, and the address of the sexually oriented business.

(G) FEES.

A license fee of \$250.00 shall be submitted with the application for a license. If the application is denied, one-half (1/2) of the fee shall be returned. The remainder shall be applied toward processing and administrative costs.

(H) DISPLAY OF LICENSE.

The license shall be displayed in a conspicuous public place, at or near the entrance of the sexually oriented business, so that it may be easily read at any time.

(I) RENEWAL OF LICENSE.

- (1) Every license issued pursuant to this Ordinance will terminate at the expiration of one (1) year from the date of issuance, unless sooner suspended or revoked. A license must be renewed before operation is allowed to continue. A license may be renewed only by making an application as provided for in Section 16.11 (E). The application for renewal must be filed not later than sixty (60) days before the license expires. The application for renewal shall be upon a form provided by the Village of Slinger and shall contain such information and data, given under oath or affirmation, as is required for an application for a new license.
- (2) A license renewal fee of \$250.00 shall be submitted with the application for renewal. In addition to the renewal fee, a late penalty in the amount of \$100.00 shall be assessed against any applicant who files for a renewal less than sixty (60) days before the license expires. If the application is denied, one-half (1/2) of the total fees collected shall be returned.
- (3) If the Village of Slinger Police Department is aware of any information bearing on applicant's qualifications, that information shall be filed in writing with the Village Clerk.

(J) INSPECTION.

- (1) For the purposes of ensuring compliance with this Ordinance, an applicant, operator or licensee shall permit law enforcement officers and any other federal, state, county or village agency in the performance of any function connected with the enforcement of this Ordinance, normally and regularly conducted by such agencies, to inspect, at any time the business is occupied or open for business, those portions of the premises of a sexually oriented business which patrons or customers are permitted to occupy.
- (2) The provisions of this Section do not apply to areas of an adult motel which are currently being rented by a customer for use as a permanent or temporary habitation.

(K) SUSPENSION.

- (1) The Village Board shall issue a written intent to suspend a license for a period not to exceed thirty (30) days if it determines that a licensee, operator or employee of a licensee has:
 - a. violated or is not in compliance with any section of this Ordinance; or
 - b. refused to allow an inspection of the sexually oriented business premises as authorized by this Ordinance.
- (2) The Village Board shall give the licensee ten (10) days written notice of the charges against him and the opportunity for a public hearing before the Board, as hereinafter provided.

(L) REVOCATION.

- (1) The Village Board shall revoke by written notice a license for a sexually oriented business if a cause for suspension in Section 16.11 (K) occurs and the license has been suspended within the preceding twelve (12) months.
- (2) The Village Board shall revoke by written notice a license if it determines that any of the following reasons exist:
 - a. Discovery that false or misleading information or data was given on any application or material facts were omitted from the application;
 - b. The licensee, operator or any employee of the licensee, violates any provisions of this Ordinance or any rules or regulation adopted by the Board pursuant to this Ordinance; provided, however, that in the case of a first offense by a licensee where the conduct was solely that of an employee, the penalty shall not exceed a suspension of thirty (30) days, if the Board shall find that the licensee had no actual or constructive knowledge of such violation and could not by the exercise of due diligence have had such actual or constructive knowledge;
 - c. The licensee becomes ineligible to obtain a license or permit;
 - d. Any cost or fee required to be paid by this Ordinance is not paid;
 - e. Any intoxicating liquor, cereal malt beverage or other alcoholic beverage is served or consumed on the premises of the sexually oriented business;
 - f. A licensee has knowingly allowed possession, use or sale of controlled substances on the premises;
 - g. A licensee has knowingly allowed prostitution on the premises;
 - h. A licensee has knowingly operated the sexually oriented business during a period of time when the licensee's license was suspended;
 - i. A licensee has knowingly allowed any act of sexual intercourse, sodomy, oral copulation, masturbation, or other sexual act to occur in or on the licensed premises. This Subsection will not apply to an adult motel, unless the licensee knowingly allowed sexual activities to occur either (i) in exchange for money, or (ii) in a public place or within public view.
- (3) The Village Board, before revoking any license, shall give the licensee at least ten (10) days written notice of the charges against him and the opportunity for a public hearing as hereinafter provided.
- (4) The transfer of ownership or control of a license shall automatically and immediately revoke the license.
- (5) Any licensee whose license is revoked shall not be eligible to receive a license for one (1) year from the date of revocation.

(M) ADMINISTRATIVE REVIEW PROCEDURE.

Chapter 68 of the Wisconsin Statutes concerning municipal administrative procedure shall govern the administrative procedure and review concerning the granting, denial, renewal or non-renewal of a permit or a license. A request for an initial determination shall be made by

an aggrieved person pursuant to the provisions contained in Wisconsin Statutes, Section 68.08 to the Village Clerk. An administrative appeal pursuant to the provision contained in Wisconsin Statute, Section 68.10 may be made by an aggrieved person to the Board of Appeals and a hearing shall be held by the Board of Appeals pursuant to Wisconsin Statute, Section 68.11. Any party to a proceeding resulting in a final determination may seek judicial review pursuant to the provisions contained in Wisconsin Statute Section, 68.13.

(N) **TRANSFER OF LICENSE.**

A licensee shall not transfer his or her license to another, nor shall a licensee operate a sexually oriented business under the authority of a license at any place other than the address designated in the application.

(O) **PHYSICAL LAYOUT OF SEXUALLY ORIENTED BUSINESSES.**

- (1) Any sexually oriented business having available for customers, patrons or members, any booth, room or cubicle for the private viewing of any specified anatomical areas or specified sexual activity must comply with the following requirements:
 - a. Access. Each booth, room, or cubicle shall be totally accessible to and from aisles and public areas of the sexually oriented business and shall be unobstructed by any door, lock or other control-type devices.
 - b. Construction. Every booth, room or cubicle shall meet the following construction requirements:
 1. Each booth, room, or cubicle shall be separated from adjacent booths, rooms or cubicles and any non-public areas by a wall.
 2. Each booth shall have at least one side totally open to the public lighted aisle which may be secured when the booth is in use by a door which extends from a height of not less than two feet above the floor.
 3. All walls shall be solid and without any openings, extended from the floor to a height of not less than six (6) feet and be light colored, non-absorbent, smooth textured and easily cleanable.
 4. The floor must be light colored, non-absorbent, smooth textured and easily cleanable.
 5. The lighting level of each booth, room, or cubicle, when not in use shall be a minimum of five (5) foot candles at all times, as measured from the floor.
 - c. Occupants. Only one individual shall occupy a booth, room or cubicle at any time. No occupant shall engage in any type of sexual activity, cause any bodily discharge or litter while in the booth. No individual shall damage or deface any portion of the booth.

(P) LOCATION.

- (1) No sexually oriented business shall be located:
 - a. Within 500 feet of an existing sexually oriented business;
 - b. Within 500 feet of any residential dwelling, included but not limited to houses, apartments, condominiums, or flats.
 - c. Within 500 feet of any pre-existing place of worship, including but not limited to any church, synagogue, mosque, temple or building which is primarily used for religious worship and related religious activities;
 - d. Within 500 feet of any public or private educational facility, including but not limited to any child day care establishments, nursery schools, preschools, kindergartens, elementary schools, junior high schools, middle schools, high schools, vocational schools, secondary schools, continuation schools, special education schools, junior colleges and universities. "School" includes the school grounds, but does not include facilities used primarily for another purpose and only incidentally at a school.
 - e. Within 500 feet from any public park or recreational area which has been designated for park or recreational activities, including but not limited to a park, a playground, nature trails, swimming pool, reservoir, athletic field, basketball or tennis courts, pedestrian/bicycle paths, wilderness areas, or other similar public land within the Village which is under the control, operation or management of the Village and recreational authorities; or
 - f. Within 500 feet of any premise that in any manner sells or disperses alcohol or is licensed pursuant to the alcoholic beverage control regulations of the State.
- (2) For the purposes of this Section, distances are to be measured in a straight line, without regard to intervening structures or objects, from the property line of the premises where a sexually oriented business is conducted, to the nearest property line of the premises of a use listed in Subsection (a). The presence of a city, county, or other political subdivision boundary shall be irrelevant for purposes of calculating and applying the distance requirements of this Section.

(Q) RESPONSIBILITY OF THE LICENSE.

- (1) Every act or omission by an employee constituting a violation of the provisions of this Section shall be deemed the act or omission of the licensee if such act or omission occurs either with the authorization, knowledge, or approval of the licensee, or as a result of the licensee's negligent failure to supervise the employee's conduct, and the licensee shall be punishable for such act or omission in the same manner as if the licensee committed the act or caused the omission.

- (2) Any act or omission of any employee constituting a violation of the provisions of this Ordinance shall be deemed the act or omission of the licensee for the purposes of determining whether the licensee's license shall be revoked, suspended or renewed.
- (3) No employee of a sexually oriented business shall allow any minor to loiter around or to frequent a sexually oriented business. It shall be the duty of the licensee of each sexually oriented business to ensure that an attendant is stationed at each public entrance to the sexually oriented business at all times during such sexually oriented businesses' regular business hours and to prevent any person under the age of eighteen (18) years of age from entering the sexually oriented business. It shall be presumed that an attendant knew a person was under the age of eighteen (18) unless such attendant asked for and was furnished:
 - a. A valid operator's, commercial operator's or chauffeur's driver's license; or
 - b. personal identification card issued by the State of Wisconsin reflecting that such person is eighteen (18) years of age or older.
- (4) The licensee shall maintain the premises in a clean and sanitary manner at all times.
- (5) The licensee shall maintain at least five (5) foot candles of light in the public portions of the establishment, including aisles, at all times. However, if a lesser level of illumination in the aisles is necessary to enable a patron to view any activity in a booth, room or cubicle adjoining an aisle, a lesser amount of illumination may be maintained in such aisle, provided, however, at no time shall there be less than one (1) foot candle of illumination of said aisles, as measured from the floor.
- (6) The licensee shall insure compliance of the sexually oriented business and its patrons with the provisions of this Ordinance.
- (7) The licensee shall insure that no alcoholic beverages are sold, used or consumed on the premises of a sexually oriented business.

(R) ADDITIONAL REGULATIONS FOR ESCORT AGENCIES.

- (1) An escort agency shall not employ any person under the age of eighteen (18) years.
- (2) A person commits an offense if the person acts as an escort, or agrees to act as an escort for any person under the age of eighteen (18) years.

(S) ADDITIONAL REGULATIONS CONCERNING SEXUALLY ORIENTED BUSINESSES.

- (1) It shall be prohibited in a sexually oriented business for a person to appear in a state of nudity or engage in specified sexual activities.

- (2) It shall be prohibited in a sexually oriented business, to appear in a semi-nude condition, unless the person is an employee, who, while semi-nude, is at least five (5) feet from any patron or customer and on a stage at least two (2) feet from the floor.
- (3) It shall be prohibited for an employee, while semi-nude in a sexually oriented business, to receive directly any pay or gratuity from any patron or customer, or for any patron or customer to pay or give any gratuity directly to any employee, while that employee is semi-nude in a sexually oriented business.
- (4) It shall be prohibited in a sexually oriented business to serve, sell, use, provide or consume any intoxicating liquor, cereal malt beverage or any other alcoholic beverage.

(T) PROHIBITION AGAINST CHILDREN IN A SEXUALLY ORIENTED BUSINESS.

It shall be prohibited for a person under the age of eighteen (18) years to be on the premises of a sexually oriented business.

(U) HOURS OF OPERATIONS.

- (1) No sexually oriented business shall be open between the hours of 2:00 a.m. and 8:00 a.m. on weekdays or between the hours of 2:00 a.m. and 12:00 noon on Sundays.
- (2) All sexually oriented businesses shall be open to inspection at all reasonable times by the Slinger Police Department and the Building Inspector.

(V) EXCLUSIONS.

The provisions of this Ordinance do not apply to the following establishments: theaters, performing arts centers, civic centers, and dinner theaters where live dance, ballet, music and dramatic performances of serious artistic merit are offered on a regular basis; and in which the predominant business or attraction is not the offering of entertainment which is intended for sexual interests or titillation of customers; and where the establishment is not distinguished by an emphasis on or the advertising or promotion of nude or semi-nude performances. While expressive live nudity may occur within these establishments, this ordinance seeks only to minimize and prevent the secondary effects of sexually oriented businesses on the community. Negative secondary effects have not been associated with the establishments referenced in this Section.

(W) ENFORCEMENT.

The Village of Slinger Police Department shall have the authority to enter any sexually oriented business within the Village at all reasonable times to inspect the premises and enforce this Ordinance.

(X) PENALTIES & PROSECUTION.

A person who operates or causes to be operated a sexually oriented business without a valid license or in violation of this Ordinance is subject to a suit for injunction as well as municipal prosecution. Such violation shall be punishable by a fine of \$500.00 plus court costs. Each day a sexually oriented business so operates is a separate offense or violation.

(Y) SEVERABILITY.

Each section and provision of this Ordinance is hereby declared to be independent divisions and subdivisions and, notwithstanding any other evidence of legislative intent, it is hereby declared to be the controlling legislative intent that if any provisions of said Ordinance, or the application thereof to any person or circumstance is held to be invalid, the remaining sections or provisions and the application of such sections and provisions to any person or circumstances other than those to which it is held invalid, shall not be affected thereby, and it is hereby declared that such sections and provisions would have been passed independently of such section or provision so known to be invalid.

(Z) CONFLICTING ORDINANCES REPEALED.

All ordinances or parts of ordinances in conflict with the provisions of this Ordinance are hereby repealed.

16.12 FIREWORKS DISPLAY PERMIT

- (A) Display Permit. As provided in §167.10(3), Wis. Stats., the Village of Slinger may regulate the issuance of fireworks user's permits. As further provided in subsection 9.03 of this Code, the Village of Slinger prohibits the sale, possession and use of fireworks, subject to certain exceptions, one of which relates to public displays of fireworks. The user's permit for such a public display, known as a display permit, shall be subject to the procedures and limitations of this subsection.
- (B) Limited Events. Display permits may be issued for festivals and public or private celebrations that satisfy the definition of Public Display set forth in Section 9.03 (A) of this Code.
- (C) Application. The party responsible for the display shall file an application with the Village Clerk on forms provided by the Village Clerk. The fee for a display permit shall be paid at the time of the application in the amount set by Village Board resolution. The permit application must be received by the Village Clerk not less than 30 days prior to the requested date of use and not less than 2 weeks before a scheduled Village Board meeting. The application must include a list of the fireworks to be used in the display and a map of the location indicating where the display will take place.
- (D) Fire Department Review. The Village Clerk shall provide a copy of all display permit applications to the Slinger Fire Department for review and recommendation to the Village Board.
- (E) Village Board Action. No permit shall be granted by the Village President unless the Village Board determines that the applicant will use the fireworks in a festival or public or private celebration that constitutes a public display pursuant to Section 9.03 (A) of this Code, and that all reasonable precautions

will be exercised with regard to the protection of the lives and property of all persons and that the display will be handled by a competent professional operator and conducted in a suitable, safe place and manner. Before the Village President executes any fireworks permit approved by the Village Board, the applicant shall file with the Village Clerk a certificate of liability insurance issued by an insurance company authorized to write such policies in the State of Wisconsin in the amount of \$1,000,000.00 for bodily injury to any one person, in the amount of \$2,000,000.00 for injury to more than one person, and in the amount of \$1,000,000.00 for damage to property that may arise by reason of use or discharge of fireworks under the permit. The Village of Slinger shall be named as one of the insureds in said policy of insurance.

- (F) Limitations. This Section implements Wisconsin Statutes Section 167.10, and is subject to municipal liability described therein. No findings or action taken by the Village Board per this Section, even if made in error, shall relieve the permittee or operator from the obligation to ensure that their activities are conducted in a safe and lawful manner, to protect people and property, nor does the Village assume any such responsibility.
- (G) Permit. A permit under this subsection shall specify all of the following and shall be subject to the following conditions:
- a. The name, address, and telephone number of the permit holder.
 - b. The date, time and location of permitted use.
 - c. Other special conditions prescribed by ordinance or the Village Board in its approval.
 - d. Such other information or limitations as the Village may require from time to time.
 - e. The permit shall be revoked when a no burn order is in place on the date of display.
 - f. As stated in NFPA 1123 Chapter 8.1.4 and 8.1.4.2, Whenever in the opinion of the AHJ (Authority Having Jurisdiction, the Village of Slinger) or the operator, any hazardous condition exists, the fireworks display shall be stopped until the condition is corrected. If high winds, precipitation, or other adverse weather conditions prevail or begin such that a hazard exists, the fireworks display shall be postponed or discontinued immediately until such time as the situation is corrected. The Village of Slinger may revoke the permit due to hazardous conditions or adverse weather conditions on the date of the display.
- (H) Revocation of Permit. If a permit is revoked under 16.12(G)(e) or 16.12(G)(f), at the request of the applicant:
- a. The permit may be reissued for a subsequent date within 60 days of the revoked date of display subject to staff approval; or,
 - b. The permit application fee may be reimbursed to the applicant less a \$25 Administrative fee.

The permit holder shall give notice of such display to the Village Fire Chief and Village Chief of Police at least five days before the date of authorized use, along with a copy of the permit or the display permit is void.

A permit under this subsection may not be issued to a person under 18 years of age.

16.13 NEW LAWN ESTABLISHMENT PERMIT

A permit is required for residential users of the Village's sanitary sewerage system as a means of providing a credit for water utilized when establishing a new lawn in accord with Village regulations. A permit will be issued based upon the following criteria:

- a. Only new residential customers connected to both Slinger Water and Wastewater Utilities and contributing only normal, domestic strength waste are eligible for this permit.
- b. The Permit is valid only for the initial establishment period of lawns within the Village of Slinger corporate boundaries. The initial establishment period is limited to three (3) consecutive months only. The Village Board may grant an extension of the initial establishment period if deemed necessary due to extenuating circumstances.
- c. Approved permit holders will be issued a credit for the volume of sewage discharged to the sewerage system for each of the affected billing periods. The volume quantity charged for sewage discharged during each billing period will be determined as follows. The Utility will establish the average volume of water used monthly by the permit applicant based on past usage. The average volume determined by the Utility will establish the fixed volume charge for sewage discharged during each billing period in which the permit is valid. If there is no past usage, the Utility's average customer usage will be used.
- d. The volume charge for water used during the permit period will remain the actual volume of water passing through the customer's meter. No credit or adjustment will be made for the volume of water used during the permit period.
- e. A permit fee will be charged for the New Lawn Establishment Permit. The permit fee will be set by the Village Board of the Village of Slinger by a duly enacted Resolution and may be changed from time to time.

16.14 PENALTY

Any person who shall violate any provision of this chapter shall be subject to a penalty not less than \$25, nor more than \$500.

16.15 PAWNBROKERS AND SECONDHAND ARTICLE AND JEWELRY DEALER'S LICENSES

The provisions of Wisconsin Statute 134.71 are adopted and made a part of this chapter by reference. It shall be unlawful for any pawnbroker or dealer in secondhand articles and jewelry to engage in any such business within the Village of Slinger without first obtaining a license in compliance with the provisions of WI Statute 134.71(5).

(A) FEE

Fees for a pawnbroker, secondhand article and jewelry dealer's license shall be assessed as established under WI Statute 134.71(11).

(B) LICENSE APPLICATION AND ISSUANCE

All license application and issuance procedures shall be in accordance with WI Statute 134.71(5) through 134.71(7).